

**NOTICE PUBLICATION REGULATION SUBMISSION****EMERGENCY**See instructions on  
reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2013-1213-04EE</b>
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY <b>California Health Benefit Exchange</b>			AGENCY FILE NUMBER (If any)

2013 DEC 13 PM 12:31

OFFICE OF  
ADMINISTRATIVE LAW**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/ Withdrawn		NOTICE REGISTER NUMBER
				PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Fingerprinting and Criminal Record Checks	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0619-01 E
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**2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)**

<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 6456
	AMEND
	REPEAL
TITLE(S) 10	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

**4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)**


5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

**6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Gabriela Ventura Gonzales	TELEPHONE NUMBER (916) 228-8477	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) gabriela.ventura@covered.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 11/25/13
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

**Re-Adopt 10 C.C.R. § 6456**

Fingerprinting and Criminal Record Checks.

**§ 6456. Fingerprinting and Criminal Record Checks.**

(a) Definitions. For purposes of this section, the following terms shall have the following associated meanings:

(1) Federal Tax Information or FTI: return or return information as defined in 26 U.S.C. § 6103(b)(1)-(2).

(2) Personal Identifying Information or PII: information which can be used to distinguish or trace an individual's identity such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc., consistent with the definition in Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies, M-07-16 (May 22, 2007).

(3) Personal Health Information or PHI: protected health information or individually identifiable health information as defined in 45 C.F.R. 160.103.

(b) The California Health Benefit Exchange (Exchange or Covered California) shall require fingerprint images and associated criminal history information from individuals described in Government Code Section 1043(a) whose duties include or would include any of the following:

(1) Access to Federal Tax Information.

(2) Access to Personal Identifying Information.

(3) Access to Personal Health Information.

(4) Access to confidential or sensitive information provided by a member of the public including, but not limited to, a credit card account number or social security number.

(5) Access to cash, checks, or other forms of payment and accountable items.

(6) Responsibility for the development or maintenance of the CalHEERS system and other critical automated systems of the Exchange.

(7) Access to information technology systems of the Exchange.

(c) Individuals whose duties require fingerprinting under paragraph (b) shall submit fingerprint images and all related information to the Department of Justice for the purpose of obtaining criminal history information as to the existence and content of a record of state or federal convictions; criminal history information as to the existence and content of a record of state or federal arrests for which the Department of Justice established that the person is free on bail or on his or her own recognizance pending trial or appeal; and criminal history information from the Department of Justice subsequent notification service, as provided pursuant to Penal Code Section 11105.2 of the ~~Penal Code~~.

(d) The Exchange shall, pursuant to paragraph (e), review the criminal history information of individuals whose duties require fingerprinting under paragraph (b) in order to make a determination of an individual's fitness to perform duties or functions that would include any of those specified in paragraph (b).

(e) (1) If the state or federal level criminal records contain a conviction of a felony, misdemeanor, or pending criminal charge related to a crime of moral turpitude that is substantially related to the qualifications, functions, or duties of the specific employment sought by the applicant or employee, it

shall be justification for denial to an individual to serve in an Exchange role that requires fingerprinting. A plea of guilty or no contest, a verdict resulting in a conviction, or the forfeiture of bail, shall be a conviction pursuant to Government Code Section 1043 irrespective of a subsequent order under Penal Code Section 1203.4.

(2) When considering criminal history information received pursuant to this section, the Exchange shall take under consideration the nature of the job held or sought, the age, nature and gravity of the offense, and any evidence of rehabilitation including evidence provided by the individual, including but not limited to participation in treatment programs.

(f) The Exchange shall pay any costs for furnishing the fingerprints and conducting the searches of all employees and prospective employees of the Exchange.

(g) This section does not apply to individuals identified in paragraph (b) whose appointment occurred prior to June 27, 2013.

Note: Authority cited: Section 100504, Government Code. Reference: Section 1043, Government Code; and Section 11105, Penal Code.



# California Health Benefit Exchange

## Board Members

Diana S. Dooley, Chair  
Kimberly Belshé Paul Fearer  
Susan Kennedy Robert Ross, MD

## Executive Director

Peter V. Lee

December 5, 2013

## ADVANCE NOTICE OF RE-ADOPTION OF EMERGENCY REGULATIONS

This notice is sent in accordance with Government Code Section 11346.1(a)(2), which requires that State of California agencies give a five-working-day advance notice of intent to file emergency regulations with the Office of Administrative Law (OAL). The California Health Benefit Exchange ("Exchange") intends to file an Emergency Rulemaking package with the Office of Administrative Law (OAL) in compliance with federal guidance applicable to State-based exchanges regarding fingerprinting and criminal background check requirements for individuals whose duties include or would include access to specified sensitive information including Personal Identifying Information, Personal Health Information, and Federal Tax Information. As required by subdivisions (a)(2) and (b)(2) of Government Code Section 11346.1, this notice appends the following: (1) the specific language of the proposed regulation and (2) the Finding of Emergency, including specific facts demonstrating the need for immediate action, the authority and reference citations, the informative digest and policy statement overview, attached reports, and required determinations.

The Exchange plans to file the Emergency Rulemaking package with OAL at least five working days from the date of this notice. If you would like to make comments on the Finding of Emergency or the proposed regulations (also enclosed), they must be received by both the Exchange and the Office of Administrative Law within five calendar days of the Exchange's filing at OAL. Responding to these comments is strictly at the Exchange's discretion.

Comments should be sent simultaneously to:

California Health Benefit Exchange  
Attn: Gabriela Ventura Gonzales  
560 J Street, Suite 290  
Sacramento, CA 95814

Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

Please note that this advance notice and comment period is not intended to replace the public's ability to comment once the emergency regulations are re-adopted. The Exchange will observe a 45-day comment period and may hold a public hearing upon written request within the 90-day certification period following the re-adoption date of the emergency regulations.

Please contact Gabriela Ventura Gonzales at 916-228-8477 or [info@hbex.ca.gov](mailto:info@hbex.ca.gov) if you have any questions concerning this Advance Notice. Materials regarding this proposal can be found at <http://www.healthexchange.ca.gov/>.

## **FINDING OF EMERGENCY**

The Director of the California Health Benefit Exchange finds that an emergency exists and that this proposed emergency re-adoption is necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety or general welfare. Federal standards under the Minimum Acceptable Risk Standards for Exchanges (MARS-E) require all individuals who have or would have access to specified sensitive information including Personal Identifying Information, Personal Health Information, and Federal Tax Information to be screened before they may be authorized to obtain access to the information systems and devices of the Exchange containing such information. These regulations are promulgated in compliance with such federal guidance to continue protecting and safeguarding customers from unauthorized and illegal access to or disclosure of protected information.

The Exchange has proceeded with diligence to comply with Government Code § 11346.1(e), and it has made substantial progress in that regard. The Exchange intends to make these emergency regulations permanent and has completed multiple steps in fulfilling the obligations required to seek a permanent rulemaking following this re-adoption. For example, the Exchange has completed a full economic impact statement and has updated the fiscal impact statement (see attached Form 399). The Exchange has also submitted the completed Form 399 for review by the Department of Finance (DOF). Additionally, the Exchange has prepared an Initial Statement of Reasons for the permanent rulemaking. The emergency rulemaking previously approved by OAL on June 27, 2013, will expire on December 25, 2013. The Exchange cannot seek a permanent rulemaking at this time in order to allow for meaningful public participation, including allowing for a full 45-day comment period and public hearing, as well as allowing for a 30 working day review by OAL.

## **DEEMED EMERGENCY**

The Exchange may "Adopt rules and regulations, as necessary. Until January 1, 2016, any necessary rules and regulations may be adopted as emergency regulations in accordance with the Administrative Procedures Act. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare." (Gov. Code, § 100504(a)(6)).

## **AUTHORITY AND REFERENCE**

Authority: Government Code Section 100504.

Reference: Government Code Sections 100504 and 1043; Penal Code Section 11105.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **Documents to be incorporated by reference:**

None

## **Summary of Existing Laws**

Under the federal Patient and Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law, the California Patient Protection and Affordable Care Act, established the California Health Benefit Exchange within state government, and it specifies the powers and duties of the executive board of the Exchange. Government Code Section 1043 authorizes the Exchange board to require, consistent with the MARS-E, employees, prospective employees, contractors, subcontractors, volunteers, or vendors with access to the information systems and devices of the Exchange containing specified sensitive information to submit a full set of fingerprints for the purpose of conducting a criminal history record check. Government Code Section 1043 further authorizes the Exchange to obtain and receive criminal history information from the California Department of Justice (DOJ) and the U.S. Federal Bureau of Investigation (FBI). Penal Code 11105 authorizes the DOJ to furnish state and federal summary criminal history information to the Exchange in fulfillment of the Exchange's employment, certification, or licensing duties.

Pursuant to the federal MARS-E and Government Code 1043 the proposed regulation would require specific individuals to successfully complete a state and federal level criminal offender record information search through the DOJ prior to his or her appointment to a position with the Exchange that requires fingerprinting. This regulation would clarify which individuals must submit fingerprints. Specifically, it would require after the effective date, individuals whose duties include or would include any of the following to submit fingerprints:

- (1) Access to Federal Tax Information.
- (2) Access to Personal Identifying Information.
- (3) Access to Personal Health Information.
- (4) Access to confidential or sensitive information provided by a member of the public including, but not limited to, a credit card account number or social security number.
- (5) Access to cash, checks, or other forms of payment and accountable items.
- (6) Responsibility for the development or maintenance of the CalHEERS system and other critical automated systems of the Exchange; and
- (7) Access to information technology systems of the Exchange.

Requiring individuals whose duties for the Exchange include or would include access to any of the above to submit fingerprints for processing prior to his or her appointment will ensure that the Exchange receives timely notification of any arrests

or convictions from the DOJ in furtherance of the public peace, health and safety, or general welfare, and satisfies MARS-E requirements.

After an evaluation of current regulations, the Exchange has determined that these proposed regulations are not inconsistent or incompatible with any existing regulations. The Exchange has determined these are the only regulations that concern the fingerprinting and background checks requirements for individuals whose duties with the Exchange would include access to the specified information above.

#### **JUSTIFICATION FOR DUPLICATION**

This proposed regulation was developed with significant stakeholder engagement to implement and clarify information from the fingerprinting and background checks process authorized under Government Code 1043. The regulation duplicates text from Government Code 1043 related to the direct implementation of the fingerprinting process to contain such information in the same source for clarity and improved access to information for individuals affected by this section pursuant to section 12(b), title 1, California Code of Regulations.

#### **MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS**

None.

#### **LOCAL MANDATE**

The Executive Director of the California Health Benefit Exchange has determined that this proposed regulatory action does not impose a mandate on local agencies or school districts.

#### **FISCAL IMPACT ESTIMATES (Attached Form 399)**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies.

#### **COSTS OR SAVINGS TO STATE AGENCIES (Attached Form 399)**

The proposal results in additional costs to the California Health Benefit Exchange, which is currently funded by federal grant money and will become financially self-sustaining in 2015. The proposal does not result in any costs or savings to any other state agency.



December 13, 2013

**STATEMENT OF CONFIRMATION OF MAILING OF  
FIVE-DAY EMERGENCY NOTICE**  
(Title 1, CCR section 50(a)(5)(A))

The California Health Benefit Exchange sent notice of the proposed emergency action to every person who has filed a request for notice of regulatory action at least five working days before submitting the emergency regulation to the Office of Administrative law in accordance with the requirements of Government Code section 11346.1, subdivision (a)(2).



**CALIFORNIA HEALTH BENEFIT EXCHANGE  
BOARD RESOLUTION NO. 2013-90**

In the matter of the readoption of the Fingerprinting and Criminal Records Check Regulations.

In accordance with Government Code Sections 100500(i), 100503(s), 100504(a)(6) and 1043, the Executive Director or his authorized designee be authorized to submit to the Office of Administrative Law an emergency regulations package concerning fingerprinting and criminal records checks. The emergency regulations package shall include the draft regulations reviewed and approved by the Board on this date.

\* \* \* \* \*

**CERTIFICATION**

I, Peter V. Lee, Executive Director of the California Health Benefit Exchange, do hereby certify that the foregoing action was duly passed and adopted by the California Health Benefit Exchange Board at an official meeting thereof on November 21, 2013.



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Peter V. Lee  
Executive Director  
California Health Benefit  
Exchange

**ECONOMIC AND FISCAL IMPACT STATEMENT**

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

*See SAM Section 6601 - 6616 for Instructions and Code Citations*

DEPARTMENT NAME <b>California Health Benefit Exchange (HBEX)</b>	CONTACT PERSON <b>Gabriela Ventura Gonzales</b>	TELEPHONE NUMBER <b>916-228-8269</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Fingerprinting and Criminal Background Checks - HBEX Employees</b>		NOTICE FILE NUMBER <b>Z</b>

**ECONOMIC IMPACT STATEMENT****A. ESTIMATED PRIVATE SECTOR COST IMPACTS** (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- |   |   |
|---|---|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements  |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance   |
| <input type="checkbox"/> c. Impacts jobs or occupations         | <input type="checkbox"/> g. Impacts individuals   |
| <input type="checkbox"/> d. Impacts California competitiveness  | <input type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) \_\_\_\_\_

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 1 Describe the types of businesses (Include nonprofits.): \_\_\_\_\_Fingerprinting imaging servicesEnter the number or percentage of total businesses impacted that are small businesses: 100%3. Enter the number of businesses that will be created: N/A eliminated: \_\_\_\_\_

Explain: \_\_\_\_\_

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (List areas.): \_\_\_\_\_5. Enter the number of jobs created: N/A or eliminated: \_\_\_\_\_ Describe the types of jobs or occupations impacted: \_\_\_\_\_

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes☐ No

If yes, explain briefly: \_\_\_\_\_

**B. ESTIMATED COSTS** (Include calculations and assumptions in the rulemaking record.)1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ see below.

- |   |                                |              |
|---|--------------------------------|--------------|
| a. Initial costs for a small business: \$ <u>N/A</u>                  | Annual ongoing costs: \$ _____ | Years: _____ |
| b. Initial costs for a typical business: \$ <u>N/A</u>                | Annual ongoing costs: \$ _____ | Years: _____ |
| c. Initial costs for an individual: \$ <u>N/A</u>                     | Annual ongoing costs: \$ _____ | Years: _____ |
| d. Describe other economic costs that may occur: <u>See attached.</u> |                                |              |

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ N/A
4. Will this regulation directly impact housing costs? ☐ Yes ☒ No If yes, enter the annual dollar cost per housing unit: \_\_\_\_\_ and the number of units: \_\_\_\_\_
5. Are there comparable Federal regulations? ☐ Yes ☒ No Explain the need for State regulation given the existence or absence of Federal regulations: Proposed rulemaking promulgates the requirements of Government Code Section 1043.
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: Consumers will benefit from this rulemaking, as HBEX employees must clear background check to safeguard the handling of sensitive and confidential personal information of the consumers.
2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority? Explain: Government Code Section 1043
3. What are the total statewide benefits from this regulation over its lifetime? \$ N/A

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were considered as this rulemaking complies with Government Code Section 1043.
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ <u>N/A</u>	Cost: \$ <u>see B(1)(d)</u>
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: N/A
4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☒ No Explain: N/A

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

**ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)**

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million ?    ☐ Yes    ☒ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: N/A

Alternative 2: \_\_\_\_\_

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:                    \$ see B(1)(d)

Cost-effectiveness ratio: \$ N/A

Alternative 1:                \$ \_\_\_\_\_

Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2:                \$ \_\_\_\_\_

Cost-effectiveness ratio: \$ \_\_\_\_\_

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**FISCAL IMPACT STATEMENT**

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**A. FISCAL EFFECT ON LOCAL GOVERNMENT** (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in \_\_\_\_\_, Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

☐ b. will be requested in the \_\_\_\_\_ Governor's Budget for appropriation in Budget Act of \_\_\_\_\_  
(FISCAL YEAR)

☐ 2. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in \_\_\_\_\_

☐ b. implements the court mandate set forth by the \_\_\_\_\_  
court in the case of \_\_\_\_\_ vs. \_\_\_\_\_

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_ at the \_\_\_\_\_  
election; (DATE)

☐ d. is issued only in response to a specific request from the \_\_\_\_\_  
\_\_\_\_\_, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the \_\_\_\_\_ authorized by Section \_\_\_\_\_  
(FEES, REVENUE, ETC.)  
\_\_\_\_\_ of the \_\_\_\_\_ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

☐ 3. Savings of approximately \$ \_\_\_\_\_ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

**ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)**


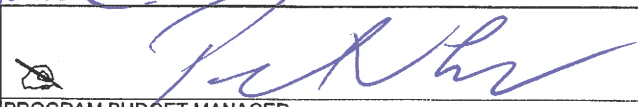

- ☒ 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other.

**B. FISCAL EFFECT ON STATE GOVERNMENT** (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- ☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year. It is anticipated that State agencies will:
- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the \_\_\_\_\_ fiscal year.
- ☐ 2. Savings of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- ☒ 4. Other. See attachment.

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- ☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 2. Savings of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- ☒ 4. Other. See attachment.

FISCAL OFFICER SIGNATURE		DATE
		11-20-2013
AGENCY SECRETARY <sup>1</sup> APPROVAL/CONCURRENCE		DATE
		11/25/13
DEPARTMENT OF FINANCE <sup>2</sup> APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE
		

1. The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
2. Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.

**CALIFORNIA HEALTH BENEFIT EXCHANGE (HBEX)  
PROPOSED REGULATION  
FINGERPRINTING AND CRIMINAL RECORD CHECKS  
STD 399**

*Economic Impact Statement*

Section B – Estimated Costs

1.d. Proposed rulemaking will generate estimated revenue of \$46,000 in FY 2013-14, \$3,000 in FY 2014-15, and \$3,000 in FY 2015-16 for Capital LiveScan (contractor). This is the estimated amount HBEX is paying the contractor for the fingerprinting services.

*Fiscal Impact Statement*

Section B – Fiscal Effect on State Government

4. The proposed regulation affects HBEX employees who handle sensitive and confidential information of the public (consumers). These employees will be in California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS), Service Centers, and Financial Management. The chapter date of Senate Bill (SB) 509 was June 17, 2013 and the regulation became effective ten days later, on June 27, 2013. Therefore, the regulation will affect those employees hired after June 27, 2013. As Attachment B indicates, the estimated annual cost impact to the HBEX Fund is \$1,000 in FY 2014-15 and \$3,000 in FY 2015-16. However, as HBEX becomes self-sustaining in January 1, 2015, HBEX will adjust the rates, if necessary, to collect sufficient revenue to offset these costs. This proposal has no impact on the General Fund.

Section C – Fiscal Effect on Federal Funding of State Programs

4. The proposed regulation affects HBEX employees who handle sensitive and confidential information of the public (consumers). The chapter date of Senate Bill (SB) 509 was June 17, 2013 and the regulation became effective ten days later, on June 27, 2013. Therefore, the regulation will affect those employees hired after June 27, 2013. These employees will be in CalHEERS, Service Centers, and Financial Management. As Attachment B indicates, the estimated cost impact to the Federal Funds (Grant) is \$46,000 in FY 2013-14 and \$2,000 in FY 2014-15. This proposal has no impact on the General Fund.

**CALIFORNIA HEALTH BENEFIT EXCHANGE  
PROPOSED RULEMAKING  
FINGERPRINTING & CRIMINAL RECORD CHECKS - HBEX EMPLOYEES**

STD 399

(whole dollars)

Fiscal Year	CalHEERS			Service Center			Finance			TOTAL			
	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16	3-Year
TOTAL AUTHORIZED POSITIONS	35.0	35.0	35.0	717.0	717.0	717.0	57.0	57.0	57.0				
TOTAL FILLED (as of 7/1/13)	25.0	35.0	35.0	8.0	717.0	717.0	32.0	57.0	57.0				
INITIAL HIRES	10.0	0.0	0.0	709.0	0.0	0.0	25.0	0.0	0.0				
BACK-FILLS DUE TO ATTRITION	1.0	2.0	2.0	0.0	36.0	36.0	2.0	3.0	3.0				
POSITION CHANGE, BY FISCAL YEAR	11.0	2.0	2.0	709.0	36.0	36.0	27.0	3.0	3.0	747.0	41.0	41.0	829.0
STATE CORI FEE <sup>A</sup>	\$32	\$32	\$32	\$32	\$32	\$32	\$32	\$32	\$32				
FEDERAL CORI FEE	\$17	\$17	\$17	\$17	\$17	\$17	\$17	\$17	\$17				
ROLLING FEE <sup>B</sup>	\$12	\$12	\$12	\$12	\$12	\$12	\$12	\$12	\$12				
TOTAL FEE	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61	\$61
COST IMPACT (FEDERAL GRANT)	\$671	\$61	\$0	\$43,249	\$1,098	\$0	\$1,647	\$92	\$0	\$45,567	\$1,251	\$0	\$46,818
COST IMPACT (HBEX FUND)	\$0	\$61	\$122	\$0	\$1,098	\$2,196	\$0	\$92	\$183	\$0	\$1,251	\$2,501	\$3,752
TOTAL COST IMPACT	\$671	\$122	\$122	\$43,249	\$2,196	\$2,196	\$1,647	\$183	\$183	\$45,567	\$2,501	\$2,501	\$50,569

<sup>A</sup> CORI = Criminal Offender Record Information<sup>B</sup> Rolling = Fingerprinting

## Assumptions:

1. Total authorized positions were based on Position Authority/HR Reconciliation (includes Board approved positions and Executive Director's approved positions) as of 10/30/13.  
HBEX incurs one-time fingerprinting cost per new hire/appointment.
2. Total Filled - Fully staffed as of December 2013. Position counts extracted from the Position Summary (PSR as of 11/12/13).
3. Assume all positions are filled in FY 2013-14 and an attrition rate of 5% starting in FY 2013-14, with an immediate backfill of positions.
4. State and Federal CORI fees per contracts with Capital Live Scan.
5. Rolling fee per contracts with Capital Live Scan.
6. Cost impact to Federal Grant is through 12/31/14.
7. Cost impact to HBEX Fund starts 1/1/15.
8. Cost for employees to travel to LiveScan are assumed minimal because there are sufficient LiveScan stations throughout California to minimize travel costs.
9. No fingerprint costs were incurred in FY 2012-13.